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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/336,709	06/21/1999	PHILIP KELLER	52352-035	7973
20277	7590	01/26/2006		
MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			EXAMINER HAROLD, JEFFEREY F	
			ART UNIT	PAPER NUMBER
			2646	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/336,709

Applicant(s)

KELLER ET AL.

Examiner

Jefferey F. Harold

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-11 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 12-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 2, and 5-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts, in view of Ishida et al. (United States Patent 6,029,047), hereinafter referenced as Ishida.

Regarding **claim 1**, Roberts discloses a local area network equalization system and method. In addition, Roberts discloses a process for configuring a transceiver for providing data communications via residential wiring, the method comprising the steps of: transmitting a pulse signal having a selected amplitude by a transmit section of the transceiver, receiving the pulse signal by an input circuit in a receiver section of the transceiver to produce a receive signal representing the pulse signal, and adjusting gain of the input circuit so as to produce the receive signal at a predetermined level, as disclosed at column 5, line 11 through column 6, line 52 and exhibited in figure 3, however, Roberts fails to disclose via telephone line. However, the examiner maintains that it was well known in the art to provide via telephone line, as taught by Ishida.

In a similar field of endeavor Ishida discloses a cable telephony terminal device having a call line selector. In addition, Ishida discloses providing data communication over residential telephone lines, as disclosed at column 3, line 18 through column 4, line 24 and exhibited in figures 1 and 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roberts by specifically providing via telephone line, as taught by Ishida, for the purpose of providing diverse communication media.

Regarding **claim 2**, Roberts discloses everything claimed as applied above (see claim 1), in addition Roberts discloses wherein the gain of the input circuit is adjusted to a fixed level during initialization of the transceiver, as disclosed at column 5, line 11 through column 7, line 5 and exhibited in figure 3.

Regarding **claim 5**, Roberts discloses everything claimed as applied above (see claim 1), in addition Roberts discloses wherein the step of adjusting gain comprises comparing amplitude of the receive signal with a preset threshold, as disclosed at column 5, line 11 through column 7, line 5 and exhibited in figure 3.

Regarding **claim 6**, Roberts discloses everything claimed as applied above (see claim 5), in addition Roberts discloses wherein the gain is reduced if the amplitude of the receive signal exceeds the threshold level, as disclosed at column 5, line 11 through column 7, line 5 and exhibited in figure 3.

Regarding **claim 7**, Roberts discloses everything claimed as applied above (see claim 6), in addition Roberts discloses wherein the gain is increased if the amplitude of

the receive signal is less than the threshold level, as disclosed at column 5, line 11 through column 7, line 5 and exhibited in figure 3.

Regarding **claims 8-11**, they are interpreted and thus rejected for the reasons set forth above in the rejection of claims 1, 2, and 5-7.

***Allowable Subject Matter***

3. ***Claims 3, 4 and 12-17*** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F. Harold whose telephone number is 571-272-7519. The examiner can normally be reached on Monday - Friday 9 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2646

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jefferey F Harold  
Primary Examiner  
Art Unit 2646



JFH  
January 17, 2006